

Message

From: Westlaw@westlaw.com [Westlaw@westlaw.com]
Sent: 4/2/2019 10:14:48 AM
To: Olszewski, Joshua [olszewski.joshua@epa.gov]
Subject: Docket Track: Texas Regional Haze 5th Cir RP

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This docket is current through 04/02/2019

Current Date: 4/2/2019

Source: US COURT OF APPEALS FOR THE FIFTH CIRCUIT
Court: US COURT OF APPEALS FOR THE FIFTH CIRCUIT
Case Title: STATE OF TEXAS, ET AL v. EPA, ET AL
Appeal From: ENVIRONMENTAL PROTECTION AGENCY
Panel Assignment: EBC JWE LHS
Date of Hearing: 06/22/2016
Date Filed: 03/01/2016

CASE INFORMATION

Case Number: 16-60118
Fee Status: FEE PAID
Case Type: APPEALS
Case Subtype: AGENCY, PETITION FOR REVIEW

LOWER COURT INFORMATION

District: EPA-1
Lower Court Docket Number: 81 FED. REG. 296
Date COA Received: 02/29/2016

OTHER CASES

| Relationship: | Lead Docket: | Member Docket: | Start Date: | End Date: |
|---------------|--------------|----------------|-------------|-----------|
| RELATED | | 17-60828 | 12/21/2017 | |

NAMES

DOCKET PROCEEDINGS (5)

| Entry #: | Date: | Description: | |
|----------|------------|---|--------------------|
| | 04/01/2019 | STATUS REPORT ADVISING THE AGENCY PROCEEDINGS ON REMAND ARE ONGOING AND THIS CASE SHOULD THEREFORE REMAIN IN ABEYANCE. THE NEXT STATUS REPORT IS DUE WITHIN 60 DAYS FROM THIS DATE, UNTIL THE MATTER IS RESOLVED. [16-60118]REVIEWED AND/OR EDITED - THE ORIGINAL TEXT PRIOR TO REVIEW APPEARED AS FOLLOWS: STATUS REPORT FROM RESPONDENTS EPA AND MR. ANDREW | ViewBatch Download |

WHEELER. DATE OF SERVICE:
 04/01/2019 VIA EMAIL - ATTORNEY FOR
 PETITIONERS: ALLISON, BENNETT,
 BILLINGS-RAY, CHANDRASEKARAN,
 FICHTHORN, FLYNN, GIDIERE,
 JEZOUIT, KELLY, KURLA,
 MCDONALD, MITCHELL, MOORE,
 ROMO, SEHA, STREETT, TAGGART,
 TAYLOR; ATTORNEY FOR
 INTERVENORS: BECKNER, GERHART,
 NASI, SAXONHOUSE, SMITH, SOULES,
 TRISKO, WALTERS; ATTORNEY FOR
 RESPONDENTS: CARSON, PINKSTON.
 THE NEXT STATUS REPORT IS DUE
 WITHIN 30 DAYS FROM THIS DATE,
 UNTIL THE MATTER IS RESOLVED.
 [16-60118] (DAVID AIKEN CARSON)
 [ENTERED: 04/01/2019 03:15 PM]

03/22/2017

COURT ORDER: IT IS ORDERED THAT IN [ViewBatch Download](#)
 LIGHT OF THIS COURT'S
 DETERMINATION THAT PETITIONERS
 AND PETITIONER-INTERVENORS
 DEMONSTRATED A SUBSTANTIAL
 LIKELIHOOD THAT RESPONDENT
 EXCEEDED ITS STATUTORY
 AUTHORITY AND OTHERWISE ACTED
 ARBITRARILY AND CAPRICIOUSLY IN
 ISSUING THE FINAL RULE'S SIP
 DISAPPROVALS AND FIP PROVISIONS,
 RESPONDENT'S MOTION TO REMAND
 THE CASE FOR RECONSIDERATION IS
 GRANTED. IT IS FURTHER ORDERED
 THAT RESPONDENT'S MOTION TO LIFT
 THE STAY WITH REGARD TO THE
 SECTIONS OF THE FINAL RULE
 APPROVING PORTIONS OF THE TEXAS
 AND OKLAHOMA SIPS IS DENIED. IT IS
 FURTHER ORDERED THAT THE JOINT
 MOTION OF PETITIONERS AND
 PETITIONER-INTERVENORS FOR
 SUMMARY VACATUR OF THE FINAL
 RULE'S SIP DISAPPROVALS AND FIP
 PROVISIONS BASED ON THE LEGAL
 ERRORS IDENTIFIED IN THE STAY
 ORDER IS DENIED. IT IS FURTHER
 ORDERED THAT THE JOINT MOTION OF
 PETITIONERS AND PETITIONER-
 INTERVENORS FOR AN ORDER
 CLARIFYING THAT THE STAY ORDER
 ENCOMPASSES ALL ASPECTS OF THE
 FINAL RULE WITHOUT EXCEPTION AND
 PROHIBITS RESPONDENT FROM
 RELYING ON ANY OF ITS SIP

DISAPPROVALS OR FIP ACTIONS AND RELATED FINDINGS IN THE FINAL RULE IN ANY SUBSEQUENT RULE OR ACTION WHILE THE STAY IS IN PLACE IS DENIED. STAY FOLLOW UP DUE FROM RESPONDENTS EPA AND MR. SCOTT PRUITT 04/06/2017. [] JUDGE(S): EBC, JWE AND LHS. [16-60118] (CMB) [ENTERED: 03/22/2017 04:07 PM] **COURT ORDER: IT IS ORDERED THAT IN LIGHT OF THIS COURTS DETERMINATION THAT PETITIONERS AND PETITIONER-INTERVENORS DEMONSTRATED A SUBSTANTIAL LIKELIHOOD THAT RESPONDENT EXCEEDED ITS STATUTORY AUTHORITY AND OTHERWISE ACTED ARBITRARILY AND CAPRICIOUSLY IN ISSUING THE FINAL RULES SIP DISAPPROVALS AND FIP PROVISIONS, RESPONDENTS MOTION TO REMAND THE CASE FOR RECONSIDERATION IS GRANTED. IT IS FURTHER ORDERED THAT RESPONDENTS MOTION TO LIFT THE STAY WITH REGARD TO THE SECTIONS OF THE FINAL RULE APPROVING PORTIONS OF THE TEXAS AND OKLAHOMA SIPS IS DENIED. IT IS FURTHER ORDERED THAT THE JOINT MOTION OF PETITIONERS AND PETITIONER-INTERVENORS FOR SUMMARY VACATUR OF THE FINAL RULES SIP DISAPPROVALS AND FIP PROVISIONS BASED ON THE LEGAL ERRORS IDENTIFIED IN THE STAY ORDER IS DENIED. IT IS FURTHER ORDERED THAT THE JOINT MOTION OF PETITIONERS AND PETITIONER-INTERVENORS FOR AN ORDER CLARIFYING THAT THE STAY ORDER ENCOMPASSES ALL ASPECTS OF THE FINAL RULE WITHOUT EXCEPTION AND PROHIBITS RESPONDENT FROM RELYING ON ANY OF ITS SIP DISAPPROVALS OR FIP ACTIONS AND RELATED FINDINGS IN THE FINAL RULE IN ANY SUBSEQUENT RULE OR ACTION WHILE THE STAY IS IN PLACE IS DENIED. STAY FOLLOW UP DUE FROM RESPONDENTS EPA AND MR. SCOTT PRUITT 04/06/2017. [] JUDGE(S): EBC, JWE AND LHS. [16-**

**60118] (CMB) [ENTERED: 03/22/2017
04:07 PM]**

01/20/2017

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~~REPLY FILED BY PETITIONERS BIG BROWN LIGNITE COMPANY, L.L.C., BIG BROWN POWER COMPANY, L.L.C., LUMINANT BIG BROWN MINING COMPANY, L.L.C., LUMINANT GENERATION COMPANY, L.L.C. AND LUMINANT MINING COMPANY, L.L.C., PETITIONERS COLETO CREEK POWER, L.P., NUCOR CORPORATION, PUBLIC UTILITY COMMISSION OF TEXAS, SOUTHWESTERN PUBLIC SERVICE COMPANY, STATE OF TEXAS, TEXAS COMMISSION ON ENVIRONMENTAL QUALITY AND UTILITY AIR REGULATORY GROUP REPLY IN SUPPORT OF JOINT CROSS-MOTION FOR SUMMARY VACATUR AND JOINT CROSS-MOTION TO ENFORCE AND CLARIFY THE COURT'S STAY ORDER [8406493-1] TO THE RESPONSE/OPPOSITION FILED BY RESPONDENTS EPA AND MS. GINA MCCARTHY IN 16-60118 [8401953-2]. DATE OF SERVICE: 01/20/2017. [16-60118] REVIEWED AND/OR EDITED-- THE ORIGINAL TEXT PRIOR TO REVIEW APPEARED AS FOLLOWS: REPLY FILED BY PETITIONERS BIG BROWN LIGNITE COMPANY, L.L.C., BIG BROWN POWER COMPANY, L.L.C., LUMINANT BIG BROWN MINING COMPANY, L.L.C., LUMINANT GENERATION COMPANY, L.L.C. AND LUMINANT MINING COMPANY, L.L.C., THE STATE OF TEXAS, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY, THE PUBLIC UTILITY COMMISSION OF TEXAS, UTILITY AIR REGULATORY GROUP, SOUTHWESTERN PUBLIC SERVICE COMPANY, COLETO CREEK POWER, LP, NUCOR CORPORATION, AND PETITIONER INTERVENORS [8406493-1] TO THE RESPONSE/OPPOSITION FILED BY RESPONDENTS EPA AND MS. GINA MCCARTHY IN 16-60118 [8401953-2], TO THE RESPONSE/OPPOSITION FILED BY INTERVENORS SIERRA CLUB AND NATIONAL PARKS CONSERVATION ASSOCIATION IN 16-60118 []. DATE OF SERVICE: 01/20/2017 VIA EMAIL-- ATTORNEY FOR INTERVENORS:~~

BECKNER, GERHART, NASI,
 SAXONHOUSE, SMITH, TRISKO,
 WALTERS, WHITTLE; ATTORNEY FOR
 PETITIONERS: ALLISON, BENNETT,
 BILLINGS-RAY, BUMPERS,
 CHANDRASEKARAN, FICHTHORN,
 FLYNN, GIDIERE, JEZOUIT, KELLY,
 KURLA, MCDONALD, MITCHELL,
 MOORE, ROMO, SEHA, STREETT,
 TAGGART, TAYLOR; ATTORNEY FOR
 RESPONDENTS: CARSON, MAGHAMFAR,
 PINKSTON. [16-60118] (PHILIP STEPHEN
 GIDIERE III) [ENTERED: 01/20/2017 05:34
 PM] **REPLY FILED BY PETITIONERS
 BIG BROWN LIGNITE COMPANY,
 L.L.C., BIG BROWN POWER COMPANY,
 L.L.C., LUMINANT BIG BROWN
 MINING COMPANY, L.L.C., LUMINANT
 GENERATION COMPANY, L.L.C. AND
 LUMINANT MINING COMPANY, L.L.C.
 PETITIONERS COLETO CREEK
 POWER, L.P., NUCOR CORPORATION,
 PUBLIC UTILITY COMMISSION OF
 TEXAS, SOUTHWESTERN PUBLIC
 SERVICE COMPANY, STATE OF TEXAS,
 TEXAS COMMISSION ON
 ENVIRONMENTAL QUALITY AND
 UTILITY AIR REGULATORY GROUP
 REPLY IN SUPPORT OF JOINT CROSS-
 MOTION FOR SUMMARY VACATUR
 AND JOINT CROSS-MOTION TO
 ENFORCE AND CLARIFY THE COURTS
 STAY ORDER [8406493-1] TO THE
 RESPONSE/OPPOSITION FILED BY
 RESPONDENTS EPA AND MS. GINA
 MCCARTHY IN 16-60118 [8401953-2].
 DATE OF SERVICE: 01/20/2017. [16-
 60118] REVIEWED AND/OR EDITED -
 THE ORIGINAL TEXT PRIOR TO
 REVIEW APPEARED AS FOLLOWS:
 REPLY FILED BY PETITIONERS BIG
 BROWN LIGNITE COMPANY, L.L.C.,
 BIG BROWN POWER COMPANY, L.L.C.,
 LUMINANT BIG BROWN MINING
 COMPANY, L.L.C., LUMINANT
 GENERATION COMPANY, L.L.C. AND
 LUMINANT MINING COMPANY, L.L.C.,
 THE STATE OF TEXAS, THE TEXAS
 COMMISSION ON ENVIRONMENTAL
 QUALITY, THE PUBLIC UTILITY
 COMMISSION OF TEXAS, UTILITY AIR
 REGULATORY GROUP,
 SOUTHWESTERN PUBLIC SERVICE**

COMPANY, COLETO CREEK POWER, LP, NUCOR CORPORATION, AND PETITIONER-INTERVENORS [8406493-1] TO THE RESPONSE/OPPOSITION FILED BY RESPONDENTS EPA AND MS. GINA MCCARTHY IN 16-60118 [8401953-2], TO THE RESPONSE/OPPOSITION FILED BY INTERVENORS SIERRA CLUB AND NATIONAL PARKS CONSERVATION ASSOCIATION IN 16-60118 []. DATE OF SERVICE: 01/20/2017 VIA EMAIL - ATTORNEY FOR INTERVENORS: BECKNER, GERHART, NASI, SAXONHOUSE, SMITH, TRISKO, WALTERS, WHITTLE; ATTORNEY FOR PETITIONERS: ALLISON, BENNETT, BILLINGS-RAY, BUMPERS, CHANDRASEKARAN, FICHTHORN, FLYNN, GIDIERE, JEZOUT, KELLY, KURLA, MCDONALD, MITCHELL, MOORE, ROMO, SEHA, STREETT, TAGGART, TAYLOR; ATTORNEY FOR RESPONDENTS: CARSON, MAGHAMFAR, PINKSTON. [16-60118] (PHILIP STEPHEN GIDIERE III) [ENTERED: 01/20/2017 05:34 PM]

04/18/2016

COURT ORDER DENYING OPPOSED MOTION OF INTERVENORS, NATIONAL PARKS CONSERVATION ASSOCIATION AND SIERRA CLUB, FOR RECONSIDERATION OF THE APRIL 12, 2016, COURT ORDER GRANTING RECONSIDERATION OF THE APRIL 8, 2016 CLERK'S ORDER. [] JUDGE(S): EBC, JWE AND LHS. [16-60118] (CMB) [ENTERED: 04/18/2016 10:11 AM] COURT ORDER DENYING OPPOSED MOTION OF INTERVENORS, NATIONAL PARKS CONSERVATION ASSOCIATION AND SIERRA CLUB, FOR RECONSIDERATION OF THE APRIL 12, 2016, COURT ORDER GRANTING RECONSIDERATION OF THE APRIL 8, 2016 CLERKS ORDER. [] JUDGE(S): EBC, JWE AND LHS. [16-60118] (CMB) [ENTERED: 04/18/2016 10:11 AM]

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04/12/2016

COURT ORDER FILED: PETITIONERS' OPPOSED JOINT MOTION FOR RECONSIDERATION, OF THE CLERK'S APRIL 8, 2016 ORDER, IS GRANTED. EPA SHALL FILE ITS CERTIFIED INDEX BY APRIL 19, 2016. [] JUDGE(S): JWE. [16-60118] (CMB) [ENTERED: 04/12/2016 11:40

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**AM|COURT ORDER FILED:
PETITIONERS OPPOSED JOINT
MOTION FOR RECONSIDERATION, OF
THE CLERKS APRIL 8, 2016 ORDER, IS
GRANTED. EPA SHALL FILE ITS
CERTIFIED INDEX BY APRIL 19, 2016. []
JUDGE(S): JWE. [16-60118] (CMB)
[ENTERED: 04/12/2016 11:40 AM]**

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